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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): BU3393/0033-095001

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed name _____

Application Number	Filed
10/774,724	February 9, 2004

First Named Inventor: Momtaz, Afshin

Art Unit	Examiner
2613	Kenneth Malkowski

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☑ attorney or agent of record. Registration number 54,760.
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

/Shane Aiden Kennedy, #54,760/
Signature

Shane Aiden Kennedy
Typed or printed name

(208) 286-1013
Telephone number

October 29, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Afshin Momtaz, et al.	Examiner: Malkowski, Kenneth J.
Serial No.:	10/774,724	Group Art Unit: 2613
Filed:	February 09, 2004	Docket No.: BU3393/0033-095001
Title:	Continuous time filter-decision feedback equalizer architecture for optical channel equalization	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant has reviewed the Office Action mailed on May 29, 2007 and the Advisory Action mailed on October 5, 2007. Applicant respectfully requests panel review of these actions on the ground that the rejections made therein are based on clear error, namely, at least the failure of the cited reference Hikada to disclose a "bandwidth controller" as recited in claims 1, 7, 14, 15, and 16.

ARGUMENT

Independent claims 1, 7, 14, and 15 were improperly rejected under 35 U.S.C. § 102(e) as being anticipated by Hidaka et al., U.S. Patent Application Pub. No. 2004/0151268. The Office Action dated May 29, 2007, asserted that the "[c]ontrol and adjustment of adjustable filter 32 is provided by adaptation control 39," described in paragraph [0024] of Hidaka, discloses the bandwidth controller. However, Hidaka discloses nothing about a bandwidth controller.

Claim 1 recites, in part:

> a bandwidth controller configured to receive the compensated signal from the decision feedback equalizer and estimate a bandwidth error of the continuous time filter based thereon, the bandwidth controller further configured to generate a control signal based on the bandwidth error and to adjust the bandwidth of the continuous time filter using the control signal, and thereby reduce the bandwidth error as determined from the decision feedback equalizer.

Applicant respectfully submits that Hidaka does not disclose (or render obvious) a bandwidth controller because nothing in Hidaka relates to estimating or adjusting bandwidth or bandwidth error, as recited in claim 1.

The Office Action asserts that page 2, paragraph [0024] of Hidaka discloses the bandwidth controller based on its disclosure of "[c]ontrol and adjustable filter 32 is provided by adaptation control 39." However, this paragraph further discloses that "[a]djustable filter 32 compensates for distortion in the signal caused by the channel," and discloses nothing about bandwidth.

The Office Action further asserts that the error calculator 136 shown in FIG. 4 of Hidaka discloses "estimat[ing] a bandwidth error." However, paragraph [0037] of Hidaka discloses that "[e]rror calculator 136 performs signal processing to calculate an error associated with the signal," and discloses nothing about bandwidth or bandwidth error.

The Office Action further asserts that the "signal from unit 137 is a control signal used to adjust the continuous time filter 132" discloses "generat[ing] a control signal based on the bandwidth error," and that the adjustable filter 132 shown in FIG. 4 of Hidaka discloses "adjust[ing] the bandwidth of the continuous time filter." Again, the component box 137 and

adjustable filter 132 shown in FIG. 4 of Hidaka, and their corresponding description, do not disclose any relationship to bandwidth or bandwidth error.

The Office Action further asserts that paragraph [0025] of Hidaka discloses "reduce[ing] the bandwidth error as determined from the decision feedback equalizer." However, a careful reading of this paragraph discloses that "[e]rror calculator 38 performs signal processing to calculate an error associated with the sampled signal. Such error may comprise an amplitude error" (emphasis added). This paragraph makes no disclosure of bandwidth or bandwidth error.

Hidaka clearly does not disclose the "bandwidth controller" recited in claim 1. Therefore, Applicant respectfully requests that the rejection of claim 1 based on Hidaka be reversed. Applicant further requests that the rejections of claims 7, 14, and 15, which also recite a "bandwidth controller," or other limitations relating to bandwidth, be reversed because Hidaka fails to disclose (or render obvious) at least the claimed elements referenced above.

The Office Action 16 under 35 U.S.C. § 103(a), again relying on Hidaka as disclosing a "bandwidth controller." Applicant respectfully requests that the rejection of claim 16 be reversed due to Hidaka's clear failure to disclose a bandwidth controller.

Conclusion

Applicant respectfully submits that the Office Action dated May 29, 2007, and the Advisory Action dated October 5, 2007, committed clear error by relying on Hidaka as disclosing a "bandwidth controller." Applicant therefore requests that the rejections of these actions be reversed. The panel may telephone Applicant's attorney (208-286-1013) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3521.

Respectfully submitted,
Brake Hughes Bellermann LLP
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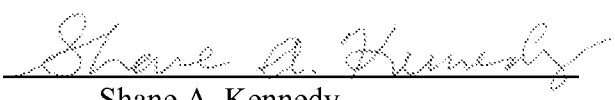
Date: October 29, 2007 By: 
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